



**In the Matter of:**

**CORNELIO A. PAZ, III,**

**ARB CASE NO. 06-031**

**COMPLAINANT,**

**ALJ CASE NO. 2006-SOX-007**

**v.**

**DATE: November 30, 2007**

**MARY'S CENTER FOR MATERNAL  
& CHILD CARE,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

***For the Petitioner:***

**Cornelio A. Paz, *pro se*, Washington, District of Columbia**

***For the Respondent:***

**Daniel M. Malabonga, Esq., Anie E. Wulkan, Esq., *Powell Goldstein LLP*,  
Washington, District of Columbia**

**FINAL DECISION AND ORDER**

In June 2005 Cornelio A. Paz filed a complaint with the United States Department of Labor. Paz alleged that his former employer, Mary's Center for Maternal & Child Care (Mary's), a non-profit health organization, suspended him, placed him on probation, and caused him to resign because he had reported what he believed to be fraudulent and otherwise illegal accounting procedures to upper management. Paz claimed that this retaliation violated the employee protection provisions of the False Claims Act<sup>1</sup> and the Sarbanes-Oxley Act of 2002.<sup>2</sup>

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<sup>1</sup> 31 U.S.C.A. § 3730(h) (West 2003).

In a December 12, 2005 Recommended Decision and Order of Dismissal (R. D. & O.), a Department of Labor Administrative Law Judge (ALJ) granted summary decision to Mary's and dismissed Paz's complaint because the Department of Labor does not have jurisdiction to hear retaliation claims under the False Claims Act and because Mary's is not a covered employer under Sarbanes-Oxley.<sup>3</sup> Paz appealed to us, the Administrative Review Board. The Secretary of Labor has delegated to the Board her authority to issue final agency decisions under SOX.<sup>4</sup> We review a decision granting summary decision de novo. That is, the standard the ALJ applies also governs our review.<sup>5</sup>

Employees claiming retaliation because they reported alleged violations of the False Claims Act “may bring an action in the appropriate district court of the United States.”<sup>6</sup> In his brief, Paz presents no argument and cites no authority that the ALJ erred in concluding that the Department of Labor lacks jurisdiction to decide his False Claim Act claim. Therefore, we affirm the ALJ's conclusion that the Department of Labor lacks jurisdiction to decide the False Claims Act claim.

Nor does Paz challenge the ALJ's decision that since Mary's is not a publicly traded company, Sarbanes-Oxley does not cover Mary's and, therefore, that claim must also be dismissed. Sarbanes-Oxley protects employees of publicly traded companies, that is, “companies with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)).”<sup>7</sup> Paz, in fact, acknowledges that Mary's is a non-profit, non-publicly traded company.<sup>8</sup> Therefore, we accept the ALJ's recommendation that Paz's Sarbanes-Oxley claim be dismissed.

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<sup>2</sup> 18 U.S.C.A. § 1514A (West Supp. 2003).

<sup>3</sup> R. D. & O. at 2.

<sup>4</sup> Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002); 29 C.F.R. § 1980.110(a)(2007).

<sup>5</sup> See 29 C.F.R. § 18.40 (2006).

<sup>6</sup> 31 U.S.C.A. § 3730(h).

<sup>7</sup> 18 U.S.C.A. § 1514A(a).

<sup>8</sup> Initial Brief at 1, 9.

Thus, since the Department of Labor does not have jurisdiction to decide retaliation claims brought under the False Claims Act and because Mary's is not a covered employer under Sarbanes-Oxley, we **DISMISS** Paz's complaint.

**SO ORDERED.**

**OLIVER M. TRANSUE**  
**Administrative Appeals Judge**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**